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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/695,226	10/25/2000	Paul D. Marko	39566	2888

7590 07/07/2006  
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1300 19th Street NW  
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EXAMINER
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PHUNKULH, BOB A

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 07/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/695,226

Applicant(s)

MARKO ET AL.

Examiner

Bob A. Phunkulh

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4-6, 10-15, 17-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-6, 10, 15, 17-21 and 23 is/are allowed.
- 6) ☒ Claim(s) 11-14, 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_

### **DETAILED ACTION**

Prosecution on the merits of this application is reopened on claims 22, 11-14 considered unpatentable for the reasons indicated below:

Applicant is advised that the Notice of Allowance mailed is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account.

### ***Specification***

The disclosure is objected to because of the following informalities: please provide the application numbers cited page 1.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22, 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by *Cobbley et al.* (US 5,614,940), hereinafter *Cobbley*.

Regarding claim 22, *Cobbley* discloses a method for generating an output signal at a receiver using a broadcast signal transmitted in a digital broadcast system (col. 6 lines 35-36) comprising the steps of:

storing predefined content segments in a memory device associated with the receiver (col. 7 lines 13-15 and 19-26; fig. 1, element 130);

receiving the broadcast signal at the receiver following transmission via the digital broadcast system (fig. 1, element 105 and 110), the broadcast signal comprising segments of program content and segments of control data (col. 3 lines 43-46 and 60-64);

accessing and retrieving selected the predefined content segments identified by the control data from the memory device (col. 9 lines 49-61); and

playing back the selected the predefined content segments at selected points in the output signal in accordance with the control data (col. 9 lines 61-63);

wherein the memory device comprises index data (col. 7 line 33-36 and 40-46; note that a single memory device can act as the cache and cache index, i.e., it stores both the content segments and the index data) with which to identify each of the predefined content segments stored therein (col. 3 lines 65-67), and the control data comprises the index data corresponding to the selected the predefined content segments (col. 3 line 65-66; col. 4 lines 57-59), the accessing step comprises the step of providing the index data in the control data to a processing device for retrieving the predefined content segments corresponding thereto from the memory device (col. 9 lines 54-63; col. 10 lines 25-33).

Regarding claim 11, *Cobbley* discloses the method further comprising the step of updating the predefined content segments in the memory device (col. 8 lines 45-48).

Regarding claim 12, *Cobbley* discloses wherein the updating step comprises the step of receiving broadcast content in the broadcast signal for updating the predefined content segments (see col. 8 lines 40-59).

Regarding claim 13, *Cobbley* discloses the updating step comprises the step of retrieving program content stored on a portable storage medium to update the predefined content segments in the memory device (see col. 7 lines 20-32).

Regarding claim 14, *Cobbley* discloses a transmitter (the broadcast source 105, see figure 1) in a digital broadcast system comprising:

- an input device for receiving content segments (the source includes both video image and/or audio data, see col. 3 lines 44-48);

- a memory device for storing index data for identifying predefined content segments stored at a remote locations (in indexing data is generate by a computer system and then inserted into the broadcast stream, see col. 4 lines 8-20; and the indexing data identifying the segment stored at capture device 115, see col. 7 lines 11-18);

- a multiplexer for multiplexing selected the content segment with at least the index data to generate a broadcast signal, the broadcast signal comprising the content

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segments with the index data inserted at selected locations therein and being used by receiver units (clients 1-n, see figure 1) at the remote locations to playback the predefined content segments with the content segments (the indexing information is inserted into broadcast stream i.e. multiplexing the indexing information with broadcast stream at the source 105, see col. 4 lines 8-19).

***Allowable Subject Matter***

Claims 5-6, 15, 17, 18-19, allowed.

***Conclusion***

**Any response to this action should be mailed to:**

The following address mail to be delivered by the United States Postal Service (USPS) only:

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P. O. Box 1450  
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(703) 872-9306, (for formal communications intended for entry)

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Crystal Plaza Two, Lobby, Room 1B03  
Arlington, VA 22202.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Bob A. Phunkulh** whose telephone number is **(571) 272-3083**. The examiner can normally be reached on Monday-Tuesday from 8:00 A.M. to 5:00 P.M. (first week of the bi-week) and Monday-Friday (for second week of the bi-week).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor **Wellington Chin**, can be reach on **(571) 272-3134**. The fax phone number for this group is **(571) 273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bob A. Phunkulh  
Primary Examiner  
TC 2600  
Technology Division 2616  
June 30, 2006

**BOB PHUNKULH**  
**PRIMARY EXAMINER**